

U.S. Serial No. 10/771,562

REMARKS

This communication is submitted in response to the non-final Office Action dated December 27, 2005. Claims 3, 7-9, 11, 14, 18-20, 22-28 are currently pending in this application. Claims 3, 7-9, 11, 14, 18-20 and 22 are independent. Claims 1, 2, 4-6, 10, 12, 13, 15-17 and 21 are canceled.

Rejection Under 35 U.S.C. § 102(e)

Claims 3, 4, 7-9, 11, 14, 15, 18-20, 22 and 24-28 are rejected as being anticipated by Sugama et al., U.S. Patent App. No. 2003/0235362 ("Sugama").

The present invention is directed to an all-optical one-by-N optical switch that includes an active deflection element formed from an electro-optical material to deflect an optical input from a single input to a selected one of N outputs. In one embodiment, a single active deflection element at the input deflects an optical signal across a waveguide that commonly connects the N outputs. The N optical outputs include passive optical elements that are aligned with the deflected optical signal to accept a signal and provide it to a selected optical output. The optical switch can either be monolithic, where the optical material are all electro-optical materials, or can be hybrid, having separately formed components, such as the common waveguide, adhered to the substrate on which the optical switch is formed.

Independent claims 3, 7-9, 11, 14, 18-20 and 22 have been amended to recite that the deflecting element comprises an electro-optical material and "at least two pairs of electrodes" on opposite sides of the electro-optical material. By contrast, Sugama only teaches a single pair of electrodes 130a, 130b.

In view of the above, it is respectfully submitted that Sugama fails to anticipate independent claims 3, 7-9, 11, 14, 18-20 and 22. In addition, claims 23-28 are not anticipated by Sugama by virtue of their dependence from one of the independent claims.

Rejection Under 35 U.S.C. § 103(a)

Claims 5, 16 and 23 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sugama. Claims 5 and 16 have been cancelled. Claim 23 depends from claim 22, which is distinguished from Sugama as set forth hereinabove. In addition, it is noted that Sugama is owned by Fujitsu and, therefore, it cannot be used in an obviousness rejection based on its filing

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date. Specifically, 35 U.S.C. § 103(c) would prevent an obviousness rejection based on Sugama's U.S. filing date under § 102(e).

In view of the above, it is respectfully submitted that Sugama fails to render obvious claim 23.

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Conclusion

Based on the foregoing, favorable reconsideration and allowance of claims 3, 7 – 9, 11, 14, 18 – 20, 22 – 28 is solicited. If necessary, the Commissioner is hereby authorized in this and concurrent replies to charge payment (or credit any overpayment) to Deposit Account No. 19-1853 for any additional required fees.

Respectfully submitted,

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